

CAUSE NO: 1112841-A

"IN RE"

Reginaid RICKS ~~~~~ RELATOR

VS.

THE STATE OF TEXAS
CHRIS DANIEL ~~~~~ RESPONDENT
DISTRICT CLERK OF HARRIS COUNTY

United States Courts
Southern District of Texas
FILED

MAR 27 2019

David J. Bradley, Clerk of Court

APPLICATION FOR A WRIT OF MANDAMUS
CAUSE NO: 1112841-A- IN THE 263RD DIS-
TRICT COURT FROM HARRIS COUNTY (HOUSTON)

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CAUSE NO. 1112841

"IN RE" Reginald Ricks,
#1441429
RELATOR
VS.

X
X
X
X

UNITED STATES DISTRICT
COURT

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SOUTHERN DISTRICT OF TEXAS

APPLICATION FOR A WRIT OF MANDAMUS

TO THE HONORABLE JUDGE OF SAID COURT:

Please take notices, come now "IN RE" Reginald Ricks, #1441429, Relator. IN the above styled and numbered cause files this his "Application for a writ of mandamus", compel the "STATE OF TEXAS", Respondent Chris Daniel, District Clerk of Harris County to "GRANT" motion entitled to a new trial pursuant to Rule 34.6(F) Tex. Rules of App. Proc.

Relator shows this Honorable Court the following:

JURISDICTION

The Jurisdiction of this Court is invoked under Title V. Extraordinary Writs, Rule 21; (2019); Relator has no other avenue available to compel an executive office of a governmental branch to perform their duties pursuant to statutory law an extraordinary writ is warranted and jurisdiction lies within this Court pursuant to Rule 21 Federal Rule of App. Proc; (2)(A); (B); (i); (ii); (iii); (iv); (C).

I.

Relator, Filed a writ of mandamus WR-70,354-05; cause no: 1112841; And it was received and presented to court, on 1-15-2019; By the court of Criminal Appeals of Texas, clerk Deana Williamson; Because of the lost or destroyed Reporter's Record that entitled Relator to a new trial pursuant to Rule 34.6 (E); Tex. Rules of App. Proc.

on 2-6-2019; Relator, Received a white card, from court of Criminal Appeals stating "denied without written order".

Relator has no other avenue to compel an executive office of a governmental branch to perform their duties.

Therefore, Relator, Federal and State Constitutional Rights has been deprived hindered, and harmed. Because without a full complete copy of the

Reporter's Record/Trial Transcripts; It is impossible, for Relator and particularly the appellant's attorney, to demonstrate the infraction of his trial, to argue against insufficient evidence to support a finding of guilt or innocence, in state or federal court, or to show inconsistent testimony of witnesses statements that has testified in trial against Relator. This is very absurdity and unreasonable.

II.

NO. WR-70,354-02, ON application FOR a writ of mandamus was "Granted" by COURT OF CRIMINAL APPEALS OF TEXAS, ON Filed date OCTOBER 23, 2013. "ORDER" the district clerk to allow Relator to gain a Full copy of the Reporter Record/Trial Transcripts, OR the UNTRANSCRIBED NOTES.

Relator show to this honorable court to NO avail. It's been over (5) Five years or more, that the district clerk CHRIS DANIEL, the State of TEXAS, and the 263rd district court Judge, Respondent won't allow Relator to be able to gain the Reporter's Record to show his innocence, the constitutional violations, his violations to a right to appeal, at the critical stage of the appellate process. Respondent would not perform it's ministerial duties by the TEXAS law. This is depriving of a right to appeal or for an out of time appeal, that's guaranteed by the constitutional amendments. see all exhibit (A)(B)(C)(D); (1)(2)(3);

III.

This writ of mandamus is brought forth in good faith and is designed to prompt this honorable court to resolve Relator Resolutions. Without the trial transcripts Reporter's Record, Relator, can not be fully effectuated, and Relator can not demonstrate that the evidence are insufficient to support a finding of guilt or innocence and punishment, and also Relator can not prove the violation of the constitutional, procedures and process, without a Full copy of the Reporter's Record/Trial Transcripts.

Further more Relator contend that the Respondent, District Clerk CHRIS DANIEL, and Judge JIM WALLACE OF the 263rd district court of HARRIS COUNTY, does not have NO Reporter's Record/Trial Transcripts, From the entire trial, dated on May 1, 2007;

IN accordance with Rule 34.6(F); TEX. Rule. OF App. PROC: "Reporter's Record lost or destroyed," Provides that an appellant is entitled to a new trial when the Reporter's Record or exhibits are lost, under the following; see Rule 34.6(F) TEX. Rule OF. App. PROC;

III.

ROBERT N. VIRDEN ~ DUE DILIGENCE
ATTORNEY AT LAW

Through his due diligence on behalf of Relator, MR R.N. VIRDEN, wrote (3) letters.

Requesting to the HARRIS COUNTY DISTRICT CLERK CHRIS DANIEL, to send (him) MR. VIRDEN a copy of the TRIAL TRANSCRIPTS, AND if it's a COSTS involved to please let him know. (still to no avail), see motion exhibits letter (1),(2),(3);

MR. R. VIRDEN, shows, and EFFORT to move the Respondent CHRIS DANIEL, Judge Jim WALLACE to produce the Reporter's Record/ TRIAL TRANSCRIPTS; which is a violation of the Due COURSE OF LAW, ART. 1.04, CODE OF CRIMINAL PROC.

ART. 1.04; Due COURSE OF LAW; CODE OF CRIM. PROC.

NO CITIZEN OF THIS STATE shall be deprived OF LIFE, LIBERTY, PROPERTY, PRIVILEGES OR IMMUNITIES, OR in any MANNER DISFRANCHISED, except by the due COURSE OF the LAW OF the land, under ART. I, SECTION 19 OF TEX. CONST; his statutory right under ART. 1.04.

Reviewing MR. VIRDEN, (3) letters, It show this honorable court due diligence and a effort to obtain the Reporter's Records that is very important in Relator cause. It also shows the evasive outline of the district clerk and the district court evasion, that show the losts or destroyed Reporter's Record. see due diligence below;

- (1). WRIT OF mandamus (order) GRANTED to purchase Reporter's Record by court of CRIMINAL appeals. see exhibit (A)(B);
- (2). Response FROM court of CRIMINAL appeals, to mother. see exhibit (C);
- (3). Response FROM state law library, to Relator. see exhibit (d);
- (4). Letters OF Attorney MR. R. N. VIRDEN. see letters (2),(2),(3).

ARGUMENT AND AUTHORITIES

Relator, struggle, Because OF the unavailability OF the Reporter's Record and Relator over the years could not perfect a Right to Appeal Notice OF Appeal, OR an out of time appeal because OF the losts or destroyed Records.

IN MENDOZA V. STATE, 439 SW3d 564-566 (Tex. App. - Amarillo 2014, no pet.) "AN appellant is entitled to a new trial IF through no Fault OF the appellant, A Reporter's Record is lost OR destroyed and the portion lost OR destroyed Record is Necessary to the Resolution to the appeal. see Tex. R. App. PROC. 34.6 (F), (3);

Also in BRYANT V. STATE, 464 SW3d 99, 2015 Tex. App. LEXIS 3353; without a complete Reporter's Record OF the evidence before the jury appellant can not demonstrate the evidence is insufficient. (quoting); MARTIN V. STATE, 5W3rd 133, 140 (Tex. App. Dallas 2000, no pet.)

Therefore, Relator, concluded that he had been deprived, and harmed by the absence OF a Reporter's Record through no Fault OF Relator, AND Request this honorable court to REVERSE and Remand his JUDGMENT OF CONVICTION and SENTENCE FOR a new trial.

PRAYERS AND RELIEF

wherefore, premises considered Relator, prayers that Relief be "GRANTED" by this honorable court deem necessary to resolve the UNRESOLVED CONTROVERTED issues material to the legality OF Relator CONFINEMENT. It is Respectfully Requested that this honorable court "GRANT" this writ OF mandamus and

Motion entitled to a new trial pursuant to Rule 34.6(F); Tex. R. App. Proc.
Base on the unavailability of the Reporter's Record that are lost or destroyed.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing "Application for a writ of mandamus" has been forwarded by the United States mail postage prepaid first class to the U.S. District Court, Southern District of Texas 515 Rusk St RM 5401 Houston TX 77002.

Reginald Ricks

Reginald Ricks, Relator
1441489

Michael unit

PO Box 4500

Tenn Colony TX 75886

Dated 3-21-2019

C-copy Filed m/mlu/019